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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/289,168	04/09/1999	KAZUNORI SAIDA	4041J000216	8291

27572 7590 11/21/2002

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EXAMINER

FORD, JOHN K

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 11/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

GN

# Supplemental Office Action Summary

Application No.

09/289,168

Applicant(s)

Saida et al.

Examiner

FORD

Art Unit

3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ ~~Responsive~~ <sup>Supplemental</sup> to communication(s) <sup>mailed</sup> filed on 10/7/02
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 31-44 is/are pending in the application.
- 4a) Of the above claim(s) 38-44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 31-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 22
- 18) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

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A copy of the supplemental IDS of November 15, 2002 is returned with this action. This final office action is supplemental to that mailed on October 7, 2002. A new shortened statutory period is set to commence with the mailing of this office action.

Applicant's election, without traverse, of claims 31-37, drawn to an air conditioner, per se, is acknowledged. Curiously, applicant states that all of claims 31-37 are readable on the elected species. The Examiner does not recall having made a species requirement. No matter, claims 31-37 are treated here and claims 38-44 are withdrawn from consideration.

Claims 31-37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 31, lines 31-32, after "defining" - the upper side of - - should be inserted and "on an upper side" deleted so that the recitation makes sense. As written, it appears to claim that the air inlet is "on an upper side", which contradicts what is stated on lines 26 and 27 of claim 31. In claim 31, line 35 - - the- - should be inserted before "boundary".

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 31-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kujirai et al. (5,715,705) in view of Todd (3,008,694) and JP 3-273923 or JP 5-58143 or JP 8-156570.

Kujirai et al. '705 shows a heat exchanger 10 (Figure 7) with a fan inlet 322 that feeds air into the casing. What the exact shape of the entry bellmouth into the casing (immediately below heat exchanger 10) is not illustrated. Note heat exchanger 10 can, in alternative embodiments, be tilted as shown in Figure 9B and 9C. While the tubes are not explicitly shown in Kujirai, it is submitted that those of ordinary skill would know that the tubes extend perpendicularly to the axis of tanks 1a and 1b (i.e., the tubes are in the plane of the paper (in Figure 7)). Even if such were not known, it is fairly taught by Todd, which, if necessary, is relied on to show tubes oriented to the fan as claimed.

Finally, to have formed a discharge from a bell mouth in Kujirai (using the modified tilted cores of Figures 9B and 9C) in Figure 7 parallel to the bottom of the heat exchanger 100 (now tilted as shown in Figures 9B or 9C) would have been obvious to one of ordinary skill in the art considering individually the teachings of any one of JP 3-273923 (Figures 4-7) which shows a large oval bellmouth oriented, at its upper surface, parallel to the lower surface of a cooling heat exchanger 20, or JP 5-58143, which also teaches an opening 25 with an opening side parallel to the side of the evaporator or newly discovered JP 8-156570, assigned to Denso (the current assignee), which discloses a large oval bellmouth 2 oriented with an opening side parallel to the side of a tilted evaporator.

Claim 35 is disclosed in col.6, lines 5-11, of Kujirai.

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication should be directed to John Ford at telephone number 703-308-2636

A handwritten signature in black ink, appearing to read 'John K. Ford', with a large, stylized flourish extending from the bottom left.

**John K. Ford**  
**Primary Examiner**